

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

| | | |
|----------------------|---|------------------------|
| STATE OF OHIO, | : | APPEAL NO. C-110554 |
| | : | TRIAL NO. B-1002649 |
| Plaintiff-Appellee, | : | |
| | : | <i>JUDGMENT ENTRY.</i> |
| vs. | : | |
| AUBREY ADAMS, | : | |
| Defendant-Appellant. | : | |

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op. 3(A); App.R. 11.1(E); Loc.R. 11.1.1.

Following a bench trial, defendant-appellant Aubrey Adams was convicted of two counts of rape, in violation of R.C. 2907.02(A)(1)(b). The trial court sentenced him to two consecutive terms of life imprisonment. Adams now appeals.

In his first assignment of error, Adams argues that the trial court erred by finding him competent to stand trial. Adams had entered a plea of not guilty by reason of insanity and had moved the trial court to evaluate his competency to stand trial. *See* R.C. 2945.371. The court found that Adams was incompetent to stand trial, and ordered him to undergo treatment to restore his competency. *See* R.C. 2945.38. Six months later, Adams was restored to competency. At the defendant's request, the trial court ordered two additional competency evaluations. After each evaluation, the court found Adams to be competent to stand trial.

The trial court's competency finding was supported by the reports of two psychiatrists and a psychologist. Because reliable, credible evidence supported the trial court's conclusion that Adams was competent to stand trial, we will not disturb

that finding. We overrule the first assignment of error. *See State v. Were*, 118 Ohio St.3d 448, 2008-Ohio-2762, 890 N.E.2d 263, ¶ 46.

In his second assignment of error, Adams challenges the weight and sufficiency of the evidence upon which his convictions were based. Following our review of the record, we conclude that the state presented sufficient evidence, including the victim's statements and DNA test results, that Adams had engaged in fellatio and anal intercourse with a six-year-old boy. *See State v. Thompkins*, 78 Ohio St.3d 380, 386, 678 N.E.2d 541 (1997). And we are unable to conclude that the trier of fact lost its way when it found him guilty of the offenses. *See id.* at 387. We overrule the second assignment of error.

In his third assignment of error, Adams argues that the trial court erred when it convicted him of multiple counts of rape because, he contends, they were allied offenses of similar import. However, the evidence demonstrated that the rapes involved distinct, different kinds of sexual activity, so they were separate offenses under R.C. 2941.25. *See State v. Strong*, 1st Dist. Nos. C-100484 and C-100486, 2011-Ohio-4947. Consequently, we overrule the assignment of error and affirm the trial court's judgment.

Further, a certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

SUNDERMANN, P.J., HENDON and FISCHER, JJ.

To the clerk:

Enter upon the journal of the court on June 29, 2012

per order of the court _____.

Presiding Judge